

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD WARE, et al.,

Plaintiffs

v.

LACKAWANNA COUNTY PRISON,  
et al.,

Defendants

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CIVIL NO. 3:CV-04-2815

(Judge Kosik)

**ORDER**

**THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:**

This civil rights action was originally filed in the Lackawanna County Court of Common Pleas, Pennsylvania, by Edward and Helen Ware. Named as defendants are the Lackawanna County Prison (“LCP”), Thomas Gilhooley, former Warden at LCP and several LCP correctional officers. Also named as a defendant is Prime Care Medical, Inc., the contract medical services provider for LCP. All parties are represented by counsel. On December 28, 2004, Prime Care Medical, Inc. filed a Notice of Removal to this court. On January 4, 2006, an Order was issued extending the discovery and dispositive motions deadlines in this action. The deadline for filing dispositive motions was extended to March 10, 2006. On March 10, 2006, defendant Prime Care Medical, Inc. filed a motion for summary judgment along with a

supporting statement of undisputed facts, exhibits and a brief (Docs. 17-19).

Following an enlargement of time, Plaintiffs filed their opposition to the motion on April 6, 2006 (Doc. 24). The motion is ripe for consideration. Because the remaining defendants have failed to file a dispositive motion it appears they wish to proceed to trial. Plaintiff Edward Ware entered the Lackawanna County Prison on August 29, 2002, to begin serving his sentence as a result of a guilty plea to a DUI charge. In the complaint he claims that on August 31, 2002, while being transported to general population, he was assaulted by the Defendant correctional officers. Specifically, he states that he was handcuffed behind his back when Defendants slammed his head and face against the prison wall, twisted his ears and grinded their fingers into the base of his skull. He was thereafter placed in the behavioral watch cell. He claims that on the evening of August 31, 2002, he complained to correctional officers that he was unable to see out of his right eye and repeatedly requested medical attention. He claims that he never received medical attention until September 3, 2002, when he was examined by a nurse who was an agent of Prime Care Medical, Inc. The nurse accused Plaintiff of lying and offered no treatment or opportunity to see a physician or obtain other examinations. Plaintiff states that on September 4, 2002, as a result of the intervention of counsel, he was taken to Mercy Hospital in Scranton, Pennsylvania, where he was diagnosed with a scratched cornea. The following day he was transported by the prison to Northeast Eye Specialists where he was diagnosed

with a detached retina. Subsequent surgery to correct the detached retina was unsuccessful. Plaintiff contends that Prime Care Medical, Inc., through its agents and employees, was deliberately indifferent to his serious medical needs which resulted in the injury and damage he ultimately suffered. He seeks monetary damages.<sup>1</sup>

After reviewing the documents both in support and in opposition to the summary judgment motion, it is clear that Prime Care Medical, Inc.'s motion must be denied as genuine issues of material fact exist as to whether Prime Care Medical Inc., was deliberately indifferent to the serious medical needs of Edward Ware. For example, disputed issues of fact include but are not limited to: whether medical personnel checked on Plaintiff while in the watch cell; whether Plaintiff made complaints of eye problems and for medical care while in the watch cell; and whether on September 3, 2002, the nurse provided adequate medical care to Plaintiff when he was examined.

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<sup>1</sup> The complaint also contains allegations of excessive force, deliberate indifference to medical care and negligence on the part of the Lackawanna County defendants. As previously stated, the Lackawanna County defendants did not file a dispositive motion in this case.

**ACCORDINGLY, THIS 20<sup>th</sup> DAY OF FEBRUARY, 2007, IT IS HEREBY  
ORDERED AS FOLLOWS:**

1. The motion for summary judgment filed by Defendant Prime Care Medical, Inc. (Doc. 17) is **denied**.
2. This case will be set for trial with regard to all claims against all Defendants. The matter will be scheduled for pretrial conference and trial at the convenience of the court.

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s/Edwin M. Kosik

United States District Judge